



DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS AND BORDER PROTECTION
NOTICE OF ISSUANCE OF FINAL DETERMINATION
CONCERNING VANTAGE ELECTRIC VEHICLES

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (“CBP”) has issued a final determination concerning the country of origin of Vantage Vehicle electric trucks and vans. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of the Vantage Vehicle EVX1000 and EVR1000 models of electric trucks and the EVC1000 and EVP1000 models of electric vans for purposes of U.S. Government procurement.

DATE: The final determination was issued on November 16, 2012. A copy of the final determination is attached. Any party-at-interest, as defined in 19 C.F.R. § 177.22(d), may seek judicial review of this final determination on or before [insert 30 days from date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Valuation and Special Programs Branch: (202) 325-0034.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on, November 16, 2012, pursuant to subpart B of part 177, Customs and Border Protection Regulations (19 C.F.R. Part 177, subpart B), CBP issued a final determination

concerning the country of origin of the Vantage Vehicle EVX1000 and EVR1000 models of electric trucks and the EVC1000 and EVP1000 models of electric vans, which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H229157, was issued at the request of Vantage Vehicle International, Inc., under procedures set forth at 19 C.F.R. Part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511–18). In the final determination, CBP concluded that, based upon the facts presented, the Vantage Vehicle EVX1000 and EVR1000 models of electric trucks and the EVC1000 and EVP1000 models of electric vans, assembled to completion in the United States from parts made in a non-TAA country, a TAA country and the United States, are substantially transformed in the United States, such that the United States is the country of origin of the finished electric vehicles for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 C.F.R. § 177.29), provides that a notice of final determination shall be published in the *Federal Register* within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 C.F.R. § 177.30), provides that any party-at-interest, as defined in 19 C.F.R. § 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the *Federal Register*.

DATED: November 16, 2012

Sandra L. Bell
Executive Director
Regulations and Rulings
Office of International Trade

Attachment

HQ H229157

November 16, 2012

MAR-2 OT:RR:CTF:VS H229157 HkP

CATEGORY: Marking

Mr. Michael Pak
CEO/President
Vantage Vehicle International, Inc.
1740 N. Delilah Street
Corona, CA 92879

RE: Government Procurement; Country of Origin of Vantage Vehicle Electric Trucks and Vans; Substantial Transformation

Dear Mr. Pak:

This is in response to your letter dated May 23, 2012, requesting a final determination on behalf of Vantage Vehicle International, Inc. ("VVI"), pursuant to subpart B of part 177 of the U.S. Customs and Border Protection ("CBP") Regulations (19 C.F.R. Part 177).

Under these regulations, which implement Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of VVI low speed electric trucks (models EVX1000 and EVR1000) and electric vans (models EVC1000 and EVP1000). We note that as a U.S. importer and manufacturer, VVI is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

According to the information submitted, VVI imports gliders(or "rolling chassis") (bare chassis with bodies, axles, and wheels only)from China into the United States and converts them into low speed electric trucks and vans. VVI assembles the gliders with other components including motors, controllers, chargers, batteries, instrument clusters, converters, wire harnesses, battery boxes, heater cores, and miscellaneous items such as fasteners and wires, and modifies

components of the gliders as necessary. Each vehicle assembled in the United States has approximately 67 components and assemblies and 146 miscellaneous items such as bolts, nuts, screws, fasteners and wires. All of the components and miscellaneous items are of U.S.-origin, except for the charger which is from Canada. Over 71 percent of the manufacturing cost of the vehicles is attributed to U.S. components and labor, approximately 26 percent to the Chinese glider, and approximately two percent to the Canadian charger. Information regarding the components, their cost and countries of origin as well as a detailed description of the manufacturing process was submitted.

The U.S. manufacturing operations are described as follows:

Stage 1 – Prepping Stage

The truck bed is removed from the glider (this initial step is not applicable to gliders used to make vans). Tires and braking components are removed from the rear axle, which is then removed from the chassis and unnecessary brackets and clutch pedals are cut. The vehicle is painted. The battery housings are removed, holes are drilled into the vehicle frame, battery housings are fastened to the frame with bolts and washers, the batteries are installed, and cables are attached to the batteries. A relay box is bolted to the frame. Necessary adjustments are made to the rear axle, which is then reinstalled into the vehicle. The parking brakes are rerouted and vacuum lines are cut in the front of the vehicle.

The prepping stage takes approximately five hours.

Stage 2 – Building

The transducer is installed along the brake line. The main wire harness is installed inside the cab and fastened below the vehicle. The heater box with new heater core and a new cluster wire harness are installed and the heater box is connected to the main wire harness. Forward and reverse switches are cut and installed into the dashboard, connected and covered. The accelerator pedal is installed. The grill with logo is attached to the back of the vehicle. The main aluminum electronics plate and all electronic components are attached to the vehicle frame and fuses and the auxiliary battery are installed. The main drive motor is attached to the rear axle and the vehicle's main electronics are installed. After the cab is cleaned of metal chips and dust, the middle console and back seats are installed. Air is removed from the brake lines. Backup alarms are installed and the electronic components are tested.

The building stage takes approximately 16 hours.

Stage 3 – Finishing

Rust-proof undercoating and spray bed liner coating are applied to the vehicle, as appropriate, by a California company.

Stage 4 – Pre-Delivery Inspection

The vehicle is washed and dried, the vehicle identification number (VIN) is recorded, stickers are added to the vehicle and paper tags, plastic and tape are removed, the windows and interior are cleaned, the seat covers installed, and the steering boot is greased. The vehicle is inspected in accordance with a quality control checklist and deficiencies addressed as required.

The inspection stage takes approximately 3 hours.

ISSUE:

What is the country of origin of the Vantage Vehicle low speed electric trucks (models EVX1000 and EVR1000) and electric vans (models EVC1000 and EVP1000) for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to Subpart B of Part 177, 19 CFR § 177.21 et seq., which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Procurement Regulations define "U.S.-made end product" as:

[A]n article that is mined, produces, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. Belcrest Linens v. United States, 573 F. Supp. 1149 (Ct. Int'l Trade 1983), aff'd, 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. See C.S.D. 80-111, C.S.D. 85-25, C.S.D. 89-110, C.S.D. 89-118, C.S.D. 90-51, and C.S.D. 90-97. If the manufacturing or combining process is a minor one which leaves the identity of the article intact, a substantial transformation has not occurred. Uniroyal, Inc. v. United States, 3 Ct. Int'l Trade 220, 542 F. Supp. 1026 (1982), aff'd 702 F.2d 1022 (Fed. Cir. 1983).

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, the extent and nature of post-assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

In Headquarters Ruling Letter ("HQ") H118435 (Oct. 13, 2010), CBP found that Chinese-origin chassis, plastic body parts and plastic pieces of trim were substantially transformed by assembly operations performed in the United States to produce electric vehicles. Under the described assembly process, the imported parts lost their individual identities and became integral parts of a new article possessing a new name, character and use. Further, components crucial to the making of an electric vehicle (the battery pack, motor, electronics, wiring assemblies, and charger) were of U.S. origin. Based upon these facts, we found that the country of origin of the electric vehicles was the United States.

In HQ H022169 (May 2, 2008), CBP found that an imported mini-truck glider was substantially transformed as a result of assembly operations performed in the United States to produce an electric mini-truck. Our decision was based on the fact that, under the described assembly process, the imported glider lost its individual identity and became an integral part of a new article possessing a new name, character and use. In addition, a substantial number of the components added to the imported glider were of U.S. origin.

In HQ 558919 (Mar. 20, 1995), a country of origin marking case relied upon in HQ H022169, U.S. Customs (now CBP) held that an extruder assembly manufactured in England was substantially transformed in the United States when it was wired and combined with U.S. components (motor, electric controls and extruder screw) to create a vertical extruder. In reaching that decision, Customs emphasized that the imported extruder subassembly and the U.S. components each had important attributes that were necessary to the operation of the extruder. Consequently, we found that the imported subassemblies should be excepted from individual marking, provided that the cartons in which the U.S. manufacturer received them were properly marked with their country of origin.

In the rulings cited above, CBP found that assembly of the imported parts together with the U.S.-made components was necessary to the operation of the finished product. The same is true in this situation. None of the imported parts, on their own, can operate as an electric vehicle but must be assembled with other necessary components, such as batteries, motors, instrument clusters, and wiring assemblies, which are all of U.S. origin. Moreover, given the complexity and duration of the U.S. manufacturing process, we consider those operations to be more than mere assembly.

Based on the information before us, and consistent with the CBP rulings cited above, we find that the Chinese-origin glider and Canadian charger are substantially transformed by the assembly operations performed in the United States to produce electric vehicles. Under the described assembly process, the imported articles lose their individual identities and become integral parts of new articles possessing new names, characters and uses. Further, components crucial to the making of an electric vehicle (the batteries, motor, instrument cluster, wiring assemblies, and heater core) are of U.S. origin. We conclude, based upon these specific facts, that the country of origin of the VVI electric trucks and vans for purposes of U.S. Government procurement is the United States.

HOLDING:

The Chinese glider and Canadian charger are substantially transformed when they are assembled in the United States with domestic components. As a result, the country of origin of VVI's line of electric vehicles, specifically the EVX1000 and EVR1000 Green Trucks and the EVC1000 and EVP1000 Green Vans, for purposes of U.S. Government procurement is the United States.

Notice of this final determination will be given in the Federal Register, as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 C.F.R. § 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell, Executive Director
Regulations and Rulings
Office of International Trade

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12/07/2012]